

Small Business Administration

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§ 134.804 The appeal petition.

(a) *Form.* There is no required format for an appeal petition. However, it must include the following:

(1) A copy of the original Statement of Dispute;

(2) A copy of the AMO's decision or other response, if any;

(3) Statement of why the AMO's decision is alleged to be in error;

(4) Any other pertinent information the OHA Judge should consider;

(5) A request for mediation, if applicable;

(6) The Employee's name, home mailing address, daytime telephone and facsimile numbers, e-mail address, and signature; and

(7) If represented by an attorney, the attorney's contact information and signature.

(b) *Service of the appeal petition upon the SBA.* The Employee must serve copies of the entire appeal petition upon three SBA officials:

(1) The AMO;

(2) Chief Human Capital Officer, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416; and

(3) Associate General Counsel for General Law, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416, e-mail: OGLService@sba.gov, except that an employee of the Office of Inspector General (OIG) must serve it upon the Counsel to the Inspector General, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416, e-mail: ig.counseldiv@sba.gov.

(c) *Certificate of Service.* The Employee will attach to the appeal petition a signed certificate of service meeting the requirements of § 134.204(d).

(d) The rules governing filing and service are in § 134.204.

(e) *Dismissal.* An appeal petition that does not meet all the requirements of this section may be dismissed by the Judge at his or her own initiative or upon motion of the SBA.

§ 134.805 After the appeal petition is filed.

(a) The AA/OHA will assign a Judge to adjudicate the case. If mediation is requested or offered, the AA/OHA will

assign a different person to mediate the case.

(b) OHA will issue and serve upon the Employee and the SBA a notice and order informing the parties that an appeal has been filed, and setting the date for SBA's response and the close of record.

(c) The rules for amendments to pleadings and supplemental pleadings are in § 134.207.

(d) Unless otherwise instructed, OHA will serve all orders and the decision by U.S. Mail upon the Employee at his or her home address, or upon the attorney if represented by an attorney.

§ 134.806 Mediation.

Either the Employee or the SBA may request mediation, or OHA may offer mediation. OHA may designate a Judge or an OHA attorney to serve as a mediator. If the parties reach a settlement through mediation, they may file a joint motion to dismiss the appeal based on that settlement. If the parties do not reach a settlement, the mediation will conclude and the appeal will go to adjudication. An OHA-provided mediator will not be involved in a subsequent adjudication.

§ 134.807 SBA response.

(a) If the appeal goes to adjudication, SBA will file and serve the SBA's response to the appeal and a copy of the Dispute File.

(b) Unless the Judge orders a different date (either on his or her own initiative or on motion by a party), the SBA must file any response to the appeal petition no later than 15 days from the conclusion of mediation or 45 days from the filing of the appeal petition, whichever is later.

(c) The SBA's response and the Dispute File are normally the last submissions in an appeal, although the Judge may order or permit additional submissions. If a party wishes to file an additional submission, the party must file and serve a motion (see § 134.211) accompanied by the proposed submission.

§ 134.808 The decision.

(a) The Judge will decide the appeal within 45 calendar days (if practicable) from close of record. The decision will

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affirm, modify, remand, or reverse the AMO's decision.

(b) The standard of review and burden of proof will be determined by the specific issue presented.

(c) OHA's decision is an initial decision which becomes the final decision of the SBA 30 calendar days after issuance, unless a party files a request for review pursuant to § 134.809.

(d) OHA's decision is not precedential and it will not be published.

§ 134.809 Review of initial decision.

The Request for Review (RFR) process is the same as in § 134.228 except that, for OIG employees:

(a) The RFR must be served on the Counsel to the Inspector General rather than on the Associate General Counsel for General Law; and

(b) The deciding official is the Inspector General (or designee) rather than the Administrator.

PART 136—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE SMALL BUSINESS ADMINISTRATION

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AUTHORITY: 29 U.S.C. 794.

SOURCE: 53 FR 19760, May 31, 1988, unless otherwise noted.

13 CFR Ch. I (1–1–13 Edition)

§ 136.101 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 136.102 Application.

This part applies to all programs or activities conducted by the Small Business Administration except for programs or activities conducted outside the United States that do not involve individuals with handicaps in the United States.

§ 136.103 Definitions.

For purposes of this part, the term—
Agency means the Small Business Administration.

Assistant Attorney General. Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

Complete complaint means a written statement that contains the complainant's name and address and describes the Agency's alleged discriminatory actions in sufficient detail to inform the Agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his